

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

SHARON MCCANN,)	
)	
Plaintiff,)	Case No.: 7:10-cv-00161
)	
vs.)	PLAINTIFF'S COMPLAINT
)	AND DEMAND FOR JURY TRIAL
ACCOUNTS RECEIVABLE MANAGEMENT, INC.,)	
)	
Defendant.)	

VERIFIED COMPLAINT

SHARON MCCANN, ("Plaintiff"), through the undersigned counsel, ALEX SIMANOVSKY & ASSOCIATES, LLC, alleges the following against ACCOUNTS RECEIVABLE MANAGEMENT, INC., ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

3. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(1).

5. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

6. Plaintiff is a natural person residing in Wichita Falls, Wichita County, Texas.

7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.

9. Defendant is a national company, with its corporate office located at: Accounts Receivable Management, Inc., 155 Mid Atlantic Parkway, Thorofare, Gloucester County, New Jersey 08086.

10. Defendant, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

A. DEBT

11. Plaintiff incurred a financial obligation in the approximate amount of \$1542.38 (the “Debt”) to Visa (the “Creditor”) in connection with a personal credit card.

12. The Debt arose from services allegedly provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. §1692a(5).

13. The debt was incurred in 2007.

14. The Debt was purchased, assigned or transferred to Accounts Receivable Management, Inc. for collection, or Accounts Receivable Management, Inc. was employed by the Creditor to collect the Debt.

15. The Defendant attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. §1692a(2).

B. HARASSMENT AND ABUSIVE TACTICS

16. Defendant’s representatives “Jennifer Hicks” and “Jan Spear” call Plaintiff from telephone number 866-932-6726 and 866-932-6731 seeking and demanding payment for the alleged debt.

17. Defendant has caused Plaintiff’s personal phone, 727-434-2167, to ring and has engaged Plaintiff in telephone conversations repeatedly.

18. Defendant began calling in on or about April 2010.

19. Defendant did not send Plaintiff a validation letter after requested one. Defendant told Plaintiff, “We don’t have anything like that; we don’t do that here.”

20. Defendant has resorted to belligerent and rude tactics when speaking with Plaintiff.

21. Defendant solicited post-dated checks from Plaintiff.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

22. Defendant violated the FDCPA based on the following:

- a.) Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.
- b.) Defendant violated §1692g of the FDCPA by failing to send Plaintiff a validation notice within five days of the initial communication.
- c.) Defendant violated §1692g(b) of the FDCPA by continuing with collection

attempts on the alleged debt before the debt has been validated.

- d.) Defendant violated §1692b(3) of the FDCPA by contacting a person other than Plaintiff more than once in communications with persons other than Plaintiff.
- e.) Defendant violated §1692f(2)-(4) of the FDCPA by accepting, soliciting, depositing, or threatening to deposit any post-dated check.
- f.) Defendant violated §1692d(2) of the FDCPA by resorting to profane or otherwise abusive language when speaking to Plaintiff.

WHEREFORE, Plaintiff, SHARON MCCANN, respectfully requests judgment be entered against Defendant, ACCOUNTS RECEIVABLE MANAGEMENT, INC., for the following:

- a. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
- b. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- c. Actual damages,
- d. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
- e. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, SHARON MCCANN, demands a jury trial in this case.

[ELECTRONIC SIGNATURE AFFIXED ON FOLLOWING PAGE]

This 28th day of October, 2010.

RESPECTFULLY SUBMITTED,

ALEX SIMANOVSKY & ASSOCIATES, LLC

/s/ Dave Lilley

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